

## Appendix E:

Scoping Report  
Supplemental Environmental Impact Statement  
Translocation of Southern Sea Otters

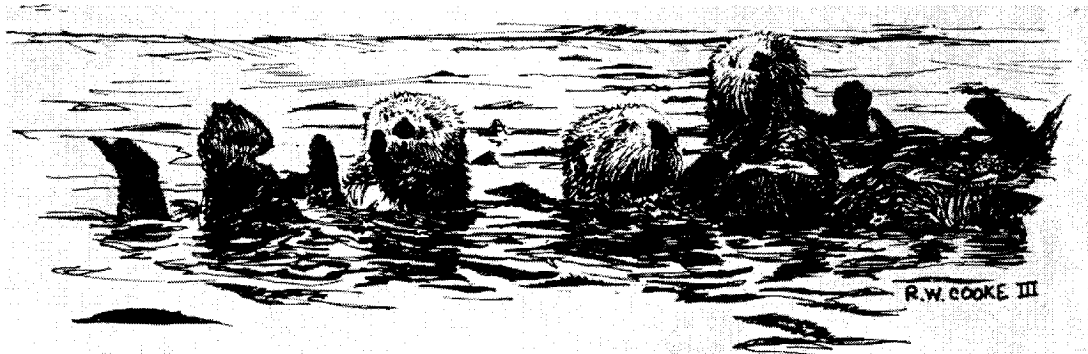
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# ***SCOPING REPORT***

## **Supplemental Environmental Impact Statement**

### **Translocation of Southern Sea Otters**

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Prepared by

United States Fish and Wildlife Service

April 2001

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**Background**

On January 14, 1977 (42 FR 2968) we, the U.S. Fish and Wildlife Service, listed the southern sea otter (*Enhydra lutris nereis*) as a threatened species under the Endangered Species Act (ESA) on the basis of its small population size, greatly reduced range, and the potential risk from oil spills. We established a recovery team for the species in 1980 and approved a recovery plan on February 3, 1982. In the recovery plan, we identified the translocation of southern sea otters to a remote location in order to establish a second colony of otters as an effective and reasonable recovery action, although we acknowledged that a translocated southern sea otter population could impact shellfish fisheries that had developed in areas formerly occupied by southern sea otters. Goals cited in the recovery plan included: minimizing risk from potential oil spills; establishing at least one additional breeding colony outside the then-current southern sea otter range; and compiling and evaluating information on historical distribution and abundance, available but unoccupied habitat, and potential fishery conflicts.

The purpose of the translocation program was to establish southern sea otters in one or more areas outside the otters' then-current range to minimize the possibility of a single natural or human-caused catastrophe, such as an oil spill, adversely affecting a significant portion of the population. Ultimately, it was anticipated that translocation would result in a larger population size and a more continuous distribution of animals throughout the southern sea otter's former historical range. We viewed translocation as important to achieve recovery and to identify the optimum sustainable population (OSP) level for the southern sea otter as required under the Marine Mammal Protection Act (MMPA).

Translocation of a listed species to establish experimental populations is specifically authorized under section 10(j) of the ESA. However, the southern sea otter is protected under both the ESA and the MMPA, and the MMPA contains no similar translocation provisions. For southern sea otters, this dilemma was resolved by the passage of Public Law (P.L.) 99-625 (Fish and Wildlife Programs: Improvement; Section 1. Translocation of California Sea Otters) on November 7, 1986, which specifically authorized development of a translocation plan for southern sea otters administered in cooperation with the affected State.

If the Secretary of the Interior chose to develop a translocation plan under P.L. 99-625, the plan was to include: the number, age, and sex of sea otters proposed to be relocated; the manner in which sea otters were to be captured, translocated, released, monitored, and protected; specification of a zone into which the experimental population would be introduced (translocation zone); specification of a zone surrounding the translocation zone that did not include range of the parent population or adjacent range necessary for the recovery of the species (management zone); measures, including an adequate funding mechanism, to isolate and contain the experimental population; and a description of the relationship of the implementation of the plan to the status of the species under the ESA and determinations under section 7 of the ESA.

The purposes of the management zone were to facilitate the management of southern sea otters and containment of the experimental population within the translocation zone and to prevent, to the maximum extent feasible, conflicts between the experimental population and fishery resources within the management zone. Any sea otter found within the management zone was to be treated as a member of the experimental population. The Service was required to use all feasible non-lethal means to capture sea otters in the management zone and return them to the translocation zone or to the range of the parent population.

In May 1987, we finalized an EIS which analyzed the impacts of establishing a program to translocate southern sea otters from their then-current range along the central coast of California to areas of northern California, southern Oregon, or San Nicolas Island off the coast of southern California. San Nicolas Island was identified as our preferred alternative. A detailed translocation plan meeting the requirements of P.L. 99-625 was included as an appendix to the final EIS.

We implemented the translocation plan and began moving groups of southern sea otters from the coast of central California to San Nicolas Island starting on August 24, 1987. In December 1987, in coordination with the CDFG, we began capturing and moving sea otters that entered the designated management zone in an effort to minimize conflicts between sea otters and fisheries within the management zone and to facilitate the management of sea otters at San Nicolas Island.

We released 140 southern sea otters at San Nicolas Island between August 1987 and March 1990. As of March 1991, approximately 14 sea otters (10 percent) were thought to remain at the island. Some sea otters died as a result of translocation; many swam back to the parent population, some moved into the management zone; and the fate of more than half the sea otters taken to San Nicolas is unknown. In 1991, we stopped translocating sea otters to San Nicolas Island, due to low retention and survival. However, we continued monitoring the sea otters remaining in the translocation zone. Sea otter surveys at San Nicolas Island are now conducted by the Biological Resources Division of the U.S. Geological Survey on a bimonthly basis.

Sea otters were captured and removed from the management zone until February 1993. At that time, two sea otters that had been recently captured in the management zone were found dead shortly after their release in the range of the parent population. A total of four sea otters were known or suspected to have died within 2 weeks of being moved from the management zone. We suspended all sea otter capture activities in the management zone to evaluate sea otter capture and transport methods. Results of the evaluation were inconclusive, but we remained concerned that capture and transport of sea otters found in the management zone could result in the death of some animals. Between December 1987 and February 1993, 24 sea otters were captured and removed from the management zone and returned to the parent range. Of these, 2 sea otters were captured twice in the management zone after being moved to the northern end of the parent range, suggesting that capture and relocation were ineffective. We discontinued

containment efforts after 1993 in response, in part, to our concerns about the unexpected mortalities of otters experienced shortly following their removal from the management zone. We also recognized that techniques at the time, which proved to be less effective than originally predicted and were labor intensive, were not a feasible means of containing otters. From 1993 to 1997, few sea otters were reported in the management zone and there appeared to be no immediate need to address sea otter containment. In 1997, CDFG announced that they also would no longer be able to assist with sea otter captures in the management zone.

A group of approximately 100 southern sea otters moved from the parent range into the northern end of the management zone in 1998. At the same time, range-wide counts of the southern sea otter population indicated a decline of approximately 10 percent since 1995. Given the decline in the southern sea otter population, we asked the Southern Sea Otter Recovery Team, a team of biologists with special expertise in sea otter ecology, for a recommendation regarding the capture and removal of sea otters in the management zone. The recovery team recommended that we not move sea otters from the management zone to the parent population because moving large groups of sea otters and releasing them within the parent range would be disruptive to the social structure of the parent population.

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In August 1998, we held two public meetings to provide information on the status of the translocation program, identify actions we intended to initiate, and solicit general comments and recommendations. At these meetings, we announced that we would reinitiate consultation under section 7 of the ESA for the containment program and begin the process of evaluating failure criteria established for the translocation plan. The technical consultant group for the Southern Sea Otter Recovery Team, composed of representatives from the fishery and environmental communities as well as State and federal agencies, was also expanded to assist with evaluating the translocation program. We provided updates on the translocation program and status of the southern sea otter population to the California Coastal Commission, Marine Mammal Commission (MMC), and California Fish and Game Commission in 1998 and 1999.

In March 1999, we distributed our draft evaluation of the translocation program to interested parties. The draft document included the recommendation that we declare the translocation program a failure because fewer than 25 sea otters remained in the translocation zone and reasons for the translocated otters' emigration or mortality could not be identified and/or remedied. We received substantive comments from agencies and the public following release of the draft for review. Comments included both support and lack of support for declaring the translocation program a failure. The majority of respondents cited new information that became available after publication of the EIS for the program. Many respondents encouraged us to look at alternatives not identified in the EIS or corresponding implementing regulations.

We prepared a draft biological opinion evaluating southern sea otter containment and distributed it to interested parties for comment on March 19, 1999. We completed a final opinion on July 19, 2000. Our reinitiation of consultation was prompted by the receipt of substantial new

information on the population status, behavior, and ecology of the southern sea otter that revealed effects of containment that were not previously considered. Specifically, the biological opinion noted that in 1998 and 1999 southern sea otters moved into the management zone in much greater numbers than had occurred in prior years; analysis of carcasses indicated that southern sea otters were being exposed to environmental contaminants and diseases which could be affecting the health of the population throughout California; range-wide counts of southern sea otters found numbers were declining; recent information, in particular the implications of the effects of the Exxon Valdez oil spill, indicated that sea otters at San Nicolas Island would not be isolated from the potential effects of a single large oil spill; and the capture and release of large groups of sea otters was likely to result in substantial adverse effects on the parent population. The Service concluded that reversal of the southern sea otter population decline and expansion of the southern sea otter's population distribution are essential to its survival and recovery. The Service further concluded that continuation of the containment program, while restricting the southern sea otter to the area north of Point Conception, will likely exacerbate recent sea otter population declines and increase vulnerability to a catastrophic oil spill or other man-made or natural stochastic events, and, therefore, likely jeopardize the continued existence of the species.

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On February 8, 2000, a draft revised recovery plan for the southern sea otter was released for public review and comment (65 FR 6221). Based on the observed decline in abundance and shift in distribution of the southern sea otter population, the recovery team recommended in the draft revised recovery plan that it would be in the best interest of the southern sea otter to declare the experimental translocation of southern sea otters to San Nicolas Island a failure and discontinue maintenance of the management zone. The recovery team's recommendation will be fully evaluated through our ongoing NEPA process on the translocation action.

On January 22, 2001, we issued a policy statement regarding capture and removal of southern sea otters in the designated management zone (66 FR 6649). The notice advised the public that we would not capture and remove southern sea otters from the management zone pending completion of our reevaluation of the southern sea otter translocation program including the preparation of a supplemental environmental impact statement (EIS) and release of a final evaluation of the translocation program, including analysis of failure criteria. Based on our July 2000 biological opinion, we determined that containment of sea otters was not consistent with our requirement under the Endangered Species Act to avoid jeopardy to the species.

### **Purpose and Need for Action**

#### **Purpose for Action**

The purpose of this supplemental EIS is to reevaluate the southern sea otter translocation plan as described in the final EIS for Translocation of Southern Sea Otters, Appendix B, May 1987, and

consider modifications to the southern sea otter translocation program, as presently structured, including termination of the program. The supplemental EIS will update information, assess the impacts of proposed alternatives, provide for public participation, and ultimately identify alternatives which will reduce the southern sea otter's vulnerability to extinction.

### **Need for the Action**

The need for the action relates to the low success rate associated with the original sea otter translocation program. A original purpose of the translocation program was to establish a colony of sea otters at a location outside the then existing parent range to enhance recovery of the species. Contrary to expectations and to the primary recovery objective of the program, translocation of sea otters to San Nicolas Island has not produced a second, independent colony of sea otters sufficiently removed from the parent population so as to be shielded against the possibility of a natural or human-caused event, such as an oil spill.

Since the completion of an EIS for the translocation of southern sea otters in 1987, changed circumstances and new information have come to light. The translocation of sea otters to San Nicolas Island has been much less successful than expected; large groups of sea otters are periodically moving into the designated management zone; capturing and moving sea otters out of the management zone has proven to be more difficult than anticipated; we have determined that containment of sea otters will likely jeopardize the species continued existence; and the southern sea otter recovery team recommends against additional translocations of sea otters and calls for a fundamentally different strategy for recovery of the species.

### **Scope of the Supplemental Environmental Impact Statement (EIS)**

The final EIS for Translocation of Southern Sea Otters, May 1987, identified and considered issues and alternatives for potential southern sea otter translocation sites in southern Oregon, northern California, and San Nicolas Island. A translocation plan for moving southern sea otters to San Nicolas Island was identified as the preferred alternative and was selected for implementation in August 1987 (52 FR 29784).

The scope of the supplemental EIS will be limited to issues and alternatives relating to the translocation of southern sea otters to San Nicolas Island and associated translocation plan including sea otter containment. The area of consideration will include all United States waters and islands seaward of the mean high tide line and south of Point Conception, California (34° 26.9' N). Effects of proposed actions on the southern sea otter population in central California will also be evaluated.



### **Decision-Making**

The supplemental EIS is being prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The supplemental EIS will contain an analysis of alternatives and will outline information to be used by decision-makers in selecting an alternative. The environmental review of this project will be conducted in accordance with the requirements of NEPA, 42 U.S.C. 4321, *et seq.*, Council for Environmental Quality Regulations for Implementing NEPA, 40 CFR 1500, *et seq.*, other appropriate federal and state regulations, and Service policy for compliance with those regulations. After completion of the supplemental EIS, the Service will select an alternative for implementation and publish a Record of Decision based upon the findings of the document.

### **Public Involvement**

On July 27, 2000, we published in the Federal Register a notice of intent to prepare a supplemental EIS on the southern sea otter translocation program (65 FR 46172). The Federal Register notice announced that public scoping meetings would be held on August 15, 2000 in Santa Barbara, California and August 17, 2000 in Monterey, California. On July 27, 2000, we distributed a press release that identified the scoping meeting dates, times and locations, to wire services at Associated Press (San Francisco) and Bay City News, reporters in coastal counties of California, local radio and television stations, and other interested parties. Formal notices of the meetings were posted in the Santa Barbara News Press, The Independent (Santa Barbara), The Coast Weekly (Monterey) and the Monterey Herald.

The purpose of the scoping meetings was to solicit information to be used to define the overall scope of the supplemental EIS, identify significant issues to be addressed, and identify alternatives to be considered. A brief presentation on the NEPA process and information related to the southern sea otter translocation plan was provided at each session with the balance of the time remaining made available for public statements. Verbal comments and suggestions were compiled on flip charts. We also solicited written comments and requested that these be sent to us, through electronic or regular mail, by September 30, 2000. A total of 61 individuals attended scoping sessions held in Santa Barbara and 43 individuals attended scoping sessions in Monterey.

We met with the technical consultants to the Southern Sea Otter Recovery Team to discuss scoping of the supplemental EIS on September 26, 2000. Comments received during the scoping meetings were reviewed and additional information was solicited from the group.

### **Characterization and Summary of Issues and Concerns Raised During Scoping Meetings**

A summary of comments received at the scoping meetings is provided in Appendix 1. Copies of all written comments received during the scoping period may be found in Appendix 2.

Generally, issues and concerns fell into four primary categories: (1) Economic impacts to fisheries and tourism; (2) Impacts to the nearshore marine ecosystem; (3) Impacts to the southern sea otter population; and (4) Impacts to other agency activities. All of these areas will be evaluated further in the supplemental EIS.

Worldwide temperature change, water quality, oil spill risk and mitigation measures, and impacts to wetlands were also identified during scoping. Although we agree these are important areas of concern we will not consider them further in the supplemental EIS because they are beyond the scope of the document and/or our ability to effect change in these areas with our proposed alternatives.

### **Alternatives to be Considered in Supplemental EIS**

In our notice of intent to prepare a supplemental EIS we identified five possible alternatives to be considered in the document. Many participants in the scoping process identified their support one alternative or some combination of these alternatives. Based on comments received we have modified our list of alternatives. The following alternatives will be evaluated in the supplemental EIS:

#### **Alternative 1: Continue the Southern Sea Otter Translocation Program (No Action Alternative)**

This alternative would continue the southern translocation program, as defined in Public Law 99-625 and 50 CFR §17.84(d), including removal of sea otters from the management zone if changed circumstances or new information indicate that containment would not result in jeopardy to the species.

#### **Alternative 2: Continue the Southern Sea Otter Translocation Program With Modification**

This alternative would require a rulemaking to change the existing regulations at 50 CFR 17.84(d)(4). The boundaries of the management zone would be re-delineated. Containment of sea otters would resume within the new boundaries of the management zone if this action would not result in jeopardy to the species. We would also pursue a change in State regulations to modify lobster, crab, and live fin-fish trapping at San Nicolas Island to avoid any reasonable possibility of take of sea otters in traps.

#### **Alternative 3: Declare the Southern Sea Otter Translocation Program a Failure**

The following sub-alternatives would require completion of an evaluation of the translocation program, including established failure criteria [50 CFR § 17.84(d)(8)], followed by consultation with the California Department of Fish and Game and the Marine Mammal Commission.

***Alternative 3a: Remove Sea Otters from San Nicolas Island and from the Management Zone***

Per 50 CFR §17.84(d)(8)(vi), the rulemaking for the translocation program would be amended to terminate the experimental population, and all otters remaining within the translocation zone would be captured and placed back in the range of the parent population. Efforts to maintain the management zone free of otters would be curtailed after all reasonable efforts were made to remove otters in the management zone at the time of the decision to terminate the program, provided that this action will not jeopardize the species.

***Alternative 3b: Remove Sea Otters from San Nicolas Island and Allow Sea Otters to Remain in Management Zone***

The rulemaking for the translocation program would be amended to terminate the experimental population, and all otters remaining within the translocation zone would be captured and placed back in the range of the parent population, provided that this action will not jeopardize the species. Efforts to maintain the management zone free of otters would stop immediately upon final decision.

***Alternative 3c: Allow Sea Otters to Remain at San Nicolas Island and Allow Sea Otters to Remain in Management Zone***

The rulemaking for the translocation program would be amended to terminate the experimental population. All sea otters within the translocation zone and management zone would be allowed to remain. Efforts to maintain the management zone free of otters would be would stop immediately upon final decision.

**Alternatives Identified but Not Considered in Supplemental EIS**

The following alternatives were proposed during the scoping period but will not be considered further in the supplemental EIS. See previous sections on the purpose and scope of the supplemental EIS for additional information concerning criteria used for these determinations.

- ▶ *Place a Moratorium on Shellfisheries.* This alternative is beyond the scope of supplemental EIS and beyond our ability to effect change consistent with the purpose and need of the supplemental EIS. Shellfisheries in California are managed by the California Department of Fish and Game.
- ▶ *Establish No-Take Zones for Fisheries.* We recognize that there are efforts underway to establish no-take zones where fisheries will be reduced or eliminated. The proposed zones will be considered in our effect analysis however we do not intend to propose new no-take zones for fisheries. This would not be consistent with the purpose of the supplemental EIS and is beyond our ability to effect change.

- ▶ *Develop Educational Programs to Encourage People to Use Alternative Food Sources and Reduce Seafood Consumption.* This alternative is beyond the scope of the supplemental EIS and does not meet the purpose and need for action.
- ▶ *Petition the U.S. Navy to Include San Nicolas Island Within the Channel Islands National Park.* We believe that the intent of this proposed alternative is to provide additional protection to the translocated population of southern sea otters. Under the translocation plan, sea otters within the boundaries of the Channel Islands National Park receive no additional protection when compared to those found in the translocation zone at San Nicolas Island. This alternative would not result in a significant modification to the translocation program and is essentially equivalent to our no-action alternative (Alternative 1).
- ▶ *Establish a Captive Breeding Program and Reintroduce Sea Otters to Other Sites in California and Mexico.* We are not considering reintroduction of sea otters to other sites in California and Mexico. This alternative is beyond the scope of the supplemental EIS and does not meet the purpose and need for action.
- ▶ *Move Sea Otters North or Translocate Sea Otters to a Location Closer to the Parent Population.* We are not considering alternate translocation sites. The scope of the supplemental EIS is limited to the translocation of southern sea otters to San Nicolas Island and associated translocation plan.

### **Supplemental EIS Schedule**

We expect to publish and distribute a draft supplemental EIS in the Fall of 2001. Public hearings will be held and written comments on the draft document will be accepted following publication. We expect a final supplemental EIS to be published about a year after publication of the draft. A final decision concerning the southern sea otter translocation program is expected shortly after the release of the final supplemental EIS.

**Suggested Issues to be Addressed**  
**Received at Scoping Meetings, August 15 and 17, 2000**

- ▶ Impact to shellfisheries
  - ▶ Worldwide temperature Changes
  - ▶ Cost of recovery of sea otters
  - ▶ Reflect an ecosystem approach
  - ▶ Mitigation for species impacts in southern California
  - ▶ Identification of critical habitat for sea otters
  - ▶ Genetic consequences of isolating populations
  - ▶ Long term management of sea otters beyond protections offered under the Endangered Species Act
  - ▶ Dietary preferences of sea otters
  - ▶ Sea otter recovery, population numbers
  - ▶ Use of artificial refuges to prevent sea otter predation and allow for fisheries
  - ▶ Impacts to depleted abalone species; white, black, pink, green
  - ▶ Pollution
  - ▶ Consider food supply for otters
  - ▶ Patrols to protect otters in remote areas

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  - ▶ Management zone threat to recovery of sea otters
  - ▶ Restoration of kelp beds
  - ▶ Sea otter tourism and co-existence
  - ▶ Oil tanker traffic in coastal areas, double hulled vessels
  - ▶ Impacts to management efforts at Channel Islands National Marine Sanctuary
  - ▶ Consider humaneness of each alternative
  - ▶ Translocation risk to sea otters
  - ▶ Impact to recovery of sea otters
  - ▶ Indirect effects to marine resources
  - ▶ Mitigation measures to reduce economic impacts
  - ▶ Impacts to the endangered white abalone
  - ▶ Sea otter as a keystone species
  - ▶ Impact to kelp industry
  - ▶ Impact to wetlands
  - ▶ Existing impact to sea otters in the parent population; Diablo canyon, municipal sewage, feral cats
  - ▶ Impact to sea urchins
  - ▶ Oil spill risk
  - ▶ Predation on sea otters
  - ▶ Northward expansion of the sea otter population
  - ▶ Peer review
  - ▶ Open access to all data
  - ▶ Impact of El Nino
  - ▶ Channel Islands Marine Sanctuary expansion
  - ▶ Welfare of individual sea otters
  - ▶ Water quality
  - ▶ Monitoring contaminants in sea otters
  - ▶ Construction of wildlife care facilities in Santa Barbara County
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## **Suggested Alternatives**

**Received at Scoping Meetings, August 15 and 17, 2000**

- ▶ Allow all sea otters to remain in southern California. Subsidize southern California fishermen affected by sea otters and provide training opportunities to assist fishermen in finding an different profession.
- ▶ Place a moratorium on shellfisheries.
- ▶ Revise regulations to redefine what constitutes failure of the translocation program. Consider promulgating an additional regulatory test which would specify that failure to achieve carrying capacity results in a failure determination.
- ▶ Allow sea otters to remain at San Nicolas Island and eliminate the management zone. Consider authority under the Marine Mammal Protection Act to retain otters at San Nicolas island.

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- ▶ ~~Establish no-take zones for fisheries to allow fisheries and sea otters to co-exist.~~
- ▶ Develop educational programs to encourage people to use alternative food sources and reduce seafood consumption.
- ▶ Petition the U.S. Navy to include San Nicolas Island within the Channel Islands National Park.
- ▶ Establish a captive breeding program for sea otters and reintroduce otters to Avalon Bay, Catalina Island. Additional release sites would include harbors and bays within the cities of Santa Cruz and Morro Bay as well as Ensenada, Mexico. Increase funding for aquariums for the purpose of captive breeding.
- ▶ Eliminate all boundaries to sea otter movement.
- ▶ Move sea otters north.
- ▶ Translocate rehabilitated pups to San Nicolas Island to augment the population.
- ▶ Translocate sea otters to a location closer to the parent population.
- ▶ Combine tasks from several alternatives to create new alternatives.